

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 982

Introduced by Assembly Member Skinner

February 18, 2011

An act to repeal and add Division 7.7 (commencing with Section 8700) of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 982, as amended, Skinner. Energy: land exchange for renewable energy-related projects.

The School Land Bank Act vests the State Lands Commission, as a trustee, with the exclusive jurisdiction and authority the School Land Bank Fund and interest in land acquired pursuant to that act. The act authorizes the commission, acting as a trustee, to acquire interest in real property for the purposes of facilitating the management of school lands to generate income.

This bill would require the commission to make best efforts to enter into a memorandum of agreement by April 1, 2012, with the United States Secretary of the Interior to facilitate land exchanges consolidating school land parcels into contiguous holdings *that are suitable* for renewable energy-related projects. The bill would require the commission, by January 1 of each year, to report to the Legislature on the status of the memorandum of agreement and school land consolidation efforts for renewable energy-related projects.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 7.7 (commencing with Section 8700) of the Public Resources Code is repealed.

SEC. 2. Division 7.7 (commencing with Section 8700) is added to the Public Resources Code, to read:

DIVISION 7.7. SCHOOL LANDS

CHAPTER 1. SCHOOL LAND BANK ACT

8700. This division shall be known and may be cited as the School Land Bank Act.

8701. The Legislature finds and declares as follows:

(a) Past policies of the state have resulted in significant depletion of the inventory of lands granted by the federal government to provide fiscal support for the public school system.

(b) It is essential that all remaining school lands and attendant interests be managed and enhanced to provide an economic base for support of the public school system.

(c) The commission shall plan and implement all transactions, including exchanges, sales, and acquisitions which would facilitate the management of school land interests for revenue generating purposes.

(d) The state, through the commission, shall take all action necessary to fully develop school lands, indemnity interests, and attendant mineral interests into a permanent and productive resource base.

(e) It is in the best interest of the state that school lands be managed as a revenue source and it is the intent of the Legislature that fair market value be a primary criterion in determining if proposed uses or dispositions of land should be approved.

(f) The consolidation of school land parcels into contiguous holdings is essential to sound and effective management and the power to acquire lands by exchange or purchase is elemental to the consolidation process.

8702. Unless the context otherwise requires, the definitions in this section govern the construction of this division.

(a) "Commission" means the State Lands Commission.

(b) "Fund" means the School Land Bank Fund.

1 ~~(e) “Trustee” means the State Lands Commission acting in its~~
2 ~~role as trustee for the School Land Bank Fund.~~

3 ~~(d) “School land” means land or interests in land granted to the~~
4 ~~state by an Act of Congress March 3, 1853 (Ch. 145, 10 Stat. 244),~~
5 ~~for the specific purpose of providing support for the public schools.~~

6 ~~(c) “School land” means land or interests in land granted to~~
7 ~~the state by an Act of Congress March 3, 1853 (Ch. 145, 10 Stat.~~
8 ~~244), for the specific purpose of providing support for the public~~
9 ~~schools.~~

10 ~~(d) “Trustee” means the State Lands Commission acting in its~~
11 ~~role as trustee for the School Land Bank Fund.~~

12 8703. Acquisitions may be made by negotiated agreement with,
13 or purchase from, the owners of the outstanding interests. Nothing
14 in this division confers any authority to exercise the power of
15 eminent domain for the purposes of this division, although that
16 power is statutorily vested in the commission.

17 8704. The trustee shall make all reasonable attempts to acquire
18 the mineral and other subsurface rights in any acquisition pursuant
19 to this division. If the trustee is unable to acquire the mineral and
20 other subsurface rights, the trustee may purchase real property
21 upon the trustee expressly finding that the benefits to be derived
22 from the acquisition are substantial and that acquisition of the
23 property without the subsurface rights is in the best interests of
24 the state for the purposes set forth in this division.

25 8705. The trustee has the exclusive jurisdiction and authority
26 to administer the fund and the interest in real property acquired
27 pursuant to this division, including the selection, acquisition, and
28 conveyance of real property by the trustee as provided in this
29 division.

30 8706. The state, in its sovereign capacity, shall accept any
31 conveyance, and the land shall thereafter be held by the state as
32 land of the legal character of school lands subject to the school
33 land trust under the jurisdiction of the commission pursuant to
34 Division 6 (commencing with Section 6001).

35 8707. The commission shall accept the conveyances on the
36 part of the state and shall authorize their acknowledgment and
37 recordation.

38 8708. Until expended for acquisitions in accordance with this
39 division, moneys in the fund shall be deposited in the Pooled
40 Money Investment Fund and the interest deposited in the fund.

1 8709. In addition to the purchase price to be paid, the costs
2 and expenses attributable to the acquisition may be payable from
3 the fund, provided that those costs shall not exceed 5 percent of
4 the expended funds.

5 8709.5. Expenses attributable to management and remediation
6 efforts on state school lands are payable from the fund.

7 8710. An action under this division is not subject to the
8 California Environmental Quality Act (Division 13 (commencing
9 with Section 21000)), the Subdivision Map Act (Division 2
10 (commencing with Section 66410) of Title 7 of the Government
11 Code), or the Property Acquisition Law (Part 11 (commencing
12 with Section 15850) of Division 3 of Title 2 of the Government
13 Code).

14 8711. There is in the State Treasury the School Land Bank
15 Fund, which is hereby created. Notwithstanding Section 13340 of
16 the Government Code, all moneys in the fund are appropriated to
17 the commission for expenditure, without regard to fiscal years, for
18 the purposes of this division. When performing the powers and
19 duties set forth in this division, the commission shall be known as
20 the School Land Bank Trustee.

21 8712. The trustee may acquire real property or any interest in
22 real property with the objective of facilitating management of
23 school lands for the purpose of generating revenue.

24 8713. The trustee shall act only at an open, scheduled public
25 meeting, subject to all provisions of Division 6 (commencing with
26 Section 6001) relating to meetings of the commission. The trustee
27 may combine its meeting with the meetings of the commission.

28 8715. The provisions of this division are not intended as
29 exclusive, and shall not restrict the commission in otherwise
30 meeting any other responsibilities and jurisdiction the commission
31 presently has by law.

32 8716. The trustee may accept gifts of real property or money
33 for the purposes of this division.

34
35 CHAPTER 2. LAND EXCHANGES FOR RENEWABLE
36 ENERGY-RELATED PROJECTS
37

38 8720. The Legislature finds and declares all of the ~~follows~~
39 *following*:

1 (a) The high cost of energy is taking a financial toll on
2 California's citizens and economy, as well as making the state
3 more dependent on foreign oil.

4 ~~(b) The use of fossil-fueled energy sources has caused~~
5 ~~detrimental effects on the environment and human health by~~
6 ~~polluting the air, soil, and water, as well as contributing to climate~~
7 ~~change.~~

8 ~~(c)~~

9 (b) California is home to abundant renewable energy resources,
10 such as solar, wind, geothermal, and biomass.

11 ~~(d)~~

12 (c) The State Lands Commission manages on behalf of the State
13 Teachers' Retirement Fund (STRS) hundreds of thousands of acres
14 of school lands, a great deal of which have significant potential
15 for siting *large-scale commercial* renewable energy projects.

16 ~~(e)~~

17 (d) The State Lands Commission has a duty pursuant to the
18 School Land Bank Act (Chapter 1 (commencing with Section
19 8700)) to take all action necessary to fully develop school lands
20 into a permanent and productive resource base for the benefit of
21 STRS.

22 ~~(f)~~

23 (e) A significant amount of school lands are not producing
24 revenue because they are isolated, landlocked parcels, the majority
25 of which are remote desert lands. The consolidation of school land
26 parcels into contiguous holdings would facilitate the sound and
27 effective management of these lands.

28 ~~(g)~~

29 (f) On October 16, 2008, the State Lands Commission adopted
30 a resolution supporting the environmentally responsible
31 development of school lands for renewable energy-related projects.

32 ~~(h)~~

33 (g) If school lands are leased for ~~commercial, large-scale~~
34 *large-scale commercial* renewable energy projects, the state will
35 benefit in the form of reduced carbon emissions, a cleaner and
36 healthier environment, affordable energy, stronger national security,
37 new jobs, and more funding for STRS.

38 ~~(i)~~

39 (h) It is the policy of the state to promote the advancement,
40 development, assessment, and installation of ~~renewable energy~~

1 ~~systems~~ *large-scale commercial renewable energy projects* on
2 school lands. Any consolidation and development of school lands
3 for renewable energy should be done with assurances that the
4 state's unique and sensitive environment will be protected.

5 8721. For the purposes of this chapter, "California desert"
6 means the California Desert Conservation Area as described in
7 Section 1781 of Title 43 of the United States Code.

8 8722. (a) The commission shall make best efforts to enter into
9 a memorandum of agreement by April 1, 2012, with the United
10 States Secretary of the Interior to facilitate land exchanges that
11 consolidate school land parcels into contiguous holdings *that are*
12 *suitable* for renewable energy-related projects. *The memorandum*
13 *of agreement shall be tailored, to the extent feasible, to prioritize*
14 *land exchanges that are best suited for large-scale commercial*
15 *renewable energy projects.*

16 (b) If a memorandum of agreement is entered into, the
17 commission shall make best efforts to consolidate all school land
18 parcels in the California desert into contiguous holdings for
19 renewable energy-related projects.

20 (c) The commission shall report to the Legislature by January
21 1 of each year on the status of the memorandum of agreement and
22 school land consolidation efforts in the California desert.

23 8724. (a) Within 240 days of the execution of the memorandum
24 of agreement, the commission shall prepare and submit to the
25 United States Secretary of the Interior a proposal for land
26 exchanges that consolidate all school land parcels in the California
27 desert into contiguous holdings *that are suitable* for renewable
28 energy-related projects. In developing the proposal, the commission
29 shall give priority to land exchanges that will facilitate the
30 development of large-scale commercial renewable energy projects.

31 (b) The commission's proposal shall be based on an
32 acre-for-acre exchange with the United States.

33 (c) Notwithstanding subdivision (b), the commission may
34 withhold a school land parcel from an exchange proposal or request
35 additional consideration from the United States Secretary of the
36 Interior if the commission reasonably believes, based on existing
37 and reliable information, that an acre-for-acre exchange would not
38 provide the state with compensation that is equal to or greater than
39 the fair market value of the school land parcel. For the ~~purpose~~
40 *purposes* of this subdivision, the commission shall consider the

1 potential renewable energy value of a parcel the commission would
2 receive in the exchange.

3 (d) In preparing the land exchange proposal, the commission
4 shall do both of the following:

5 (1) Consult with the State Energy Resources Conservation and
6 Development Commission to identify areas that are best suited for
7 renewable energy projects because of access to transmission lines,
8 renewable energy resources, and any other relevant factors.

9 (2) Consult with the Department of Fish and Game to identify
10 areas in the California desert meeting ~~both~~ *either* of the following
11 criteria:

12 (i)

13 (A) It is not likely that a renewable energy project would have
14 a significant effect on sensitive environmental habitat or migratory
15 birds in the area.

16 (ii)

17 (B) The area would serve as a potential mitigation area to offset
18 the impacts that renewable energy-related projects may have on
19 the environment.

20 (e) The commission's costs and expenses attributable to the
21 land exchange process may be payable from the fund.

22 (f) The commission may consider counter land exchange
23 proposals from the United States Secretary of the Interior and make
24 additional proposals to the extent that the additional proposals
25 achieve the goals set forth in this chapter.

26 (g) Final approval of a land exchange proposed pursuant to this
27 chapter shall be made by the commission at a properly noticed
28 commission meeting.